

# North Sacramento School District

670 Dixie Avenue - Sacramento, CA 95815  
Web Site - [www.nssd.k12.ca.us](http://www.nssd.k12.ca.us)

**DENNIS C. TILLET, SUPERINTENDENT**

**DEPARTMENT OF SUPPORT SERVICES**

Douglas Marquand, Chief, Business and Operations  
Tel. (916) 263-8208  
Fax (916) 263-8226

Fadi Daher, Supervisor of Purchasing and Transportation  
Tel. (916) 263-8445  
Fax (916) 263-8443

**RECEIVED & INSPECTED**

**DEC 7 - 2005**

**FCC - MAILROOM**

**BOARD OF TRUSTEES**

Vern L. Coleman  
Linda M. Fowler, J.D.  
Elizabeth B. Miller  
Maxine Sullivan-Pepper  
Carol D. Wheeler

December 5, 2005

TO: Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

FROM: North Sacramento School District  
Fadi Daher  
2826 Taft Street  
Sacramento, CA 95815  
(916) 263-8445 Phone  
(916) 263-8443 Fax  
[fdaher@nssd.k12.ca.us](mailto:fdaher@nssd.k12.ca.us)

RE: Request for Review and Waiver Request  
CC Docket No. 02-6

This correspondence is to appeal the SLD decision, and its subsequent denial on appeal, for funding year 2004, 471 application # 395567: FRN's 1081292 & 1091613. The funding commitment letter is dated June 21, 2005. The Administrator's Decision on Appeal, denying the appeal, is dated October 14, 2005.

The Billed Entity is: North Sacramento Elem. Sch. Dist.  
The Billed Entity number is: 144615  
The 471# is: 395567

The funding commitment letter states: "Your form 470 indicated that you had an RFP describing the services that you sought on this funding request. However, since you failed to provide RFP's that were requested in order to review the bidding process, the funding is denied." This language is used in both FRN's.

During our conversations with Jaimi Smith, from the SLD's Selective Review Process, we have misunderstood what she required for this application. Since there was no RFP for this application, in funding year 2004, as this was a pre-existing Calnet contract (California state

For all copies read  
List ABOVE

0

negotiated contract), we provided her with a copy of the signed contract with SBC, our service provider. This copy of the signed contract clearly showed that this was a five-year contract, signed in January 2000. Back in December 1999, we had posted a 470 application with a request for Telecom services and Internet services, which Pacific Bell (now SBC) responded to. They were the only service provider that responded to our request. Their proposal consisted of the Calnet program, which is a five-year contract, and they were awarded the bid.

On July 12, 2005, we appealed the SLD's denial of our funding request, and provided it with a copy of the RFP dating back to funding year 3.

On October 14, 2005, the SLD denied our appeal.

In the explanation of its decision to deny our appeal, the SLD states:

*"Although you have provided additional documentation (copy of the RFPs) on appeal, program rules do not permit the SLD to accept new information on appeal except where an applicant was not given an opportunity to provide information or an error was made by the SLD."*

Clearly the SLD's denial of our appeal is not based on the appeal's merit (the SLD recognizes that we did provide it with the requested information). By the SLD's explanation, the decision is based on the fact that program rules do not permit the SLD to consider new information, regardless of the merit of that information.

We hereby petition the FCC to waive said rule concerning additional information, and consequently, to review our appeal based on the merit of our situation, rather than on a technical program rule.

The SLD's Denial of Appeal further states in its explanation:

*"FCC rules require applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate."*

This requirement has been met (in year 3, when the contract was originally awarded), and is therefore not a valid reason for denying our application.

While the need of the SLD to have extensive program rules is unquestionable, it remains that the reason cited for the denial is a filing technicality, and not a material breach of the process.

We would like to reiterate the following points:

- A fair, competitive and ERate-compliant bidding process was conducted for the services in question.
- SBC (formerly Pacific Bell) is the only potential provider for these services in our region.
- SBC was consequently the only respondent to the original RFP in Year 3
- The contract awarded (Calnet Contract) was negotiated by the state of California to be the best contract possible for local governments (including school districts).
- The funding requests that were denied are for essential phone and internet services.
- The SLD granted identical funding requests, for the same basic services, in all previous years.

We strongly affirm that:

- The integrity of the process was never compromised
- The requirement for a fair and competitive bidding process was upheld.
- The reason invoked for denying our funding request is immaterial: whether we provided the correct information before the appeal or after it reflects no material deviation in the way the process was conducted.

The FCC's Mission states:

*It is the mission of the Federal Communications Commission to ensure that the American people have available – at reasonable costs and without discrimination – rapid, efficient, nationwide and worldwide communication services whether by radio, television, wire, wireless, satellite, or cable.*

The FCC's Strategic Plan *"ensures the universal availability of basic telecommunications service; makes communications services accessible to all people"*.

We are an inner city school district with 89% of our students qualifying for free and reduced lunches, and about 10-12% homelessness rate. This denial of funding will severely hurt our ability to provide our students with the educational services and programs they need and deserve.

We believe that the SLD's denial of our appeal meets the letter of its program rules but contradicts the spirit of the program, the FCC's mission and its declared objectives.

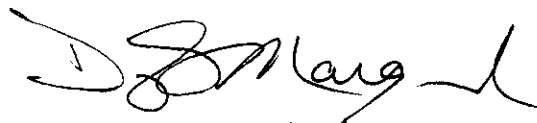
The SLD is, rightly so, concerned about potential fraud and material irregularities, and about exercising good governance of the E-Rate program. However, no material irregularity took place in this case, and it is impossible to explain as good governance the decision to deprive a school district servicing disadvantaged urban neighborhoods of badly needed and deserved funds, funds that are used to pay for basic phone and internet services.

The E-Rate program is one of the most complex programs to manage, with numerous and changing rules and requirements. We diligently try our best to be in compliance, and to properly file all our applications. There is however always room for misunderstandings, errors and omissions. We hope that when they do occur, and they do not result in a material deviation from the program rules, the FCC will have the wisdom to judge our application on its merit and grant it, instead of penalizing the students of our district for a one document error and omission in a large application package.

Sincerely,



Fadi Daher  
Supervisor of Purchasing & Transportation



Doug Marquand  
Chief, Business & Operations



**Universal Service Administrative Company**  
Schools & Libraries Division

---

**Administrator's Decision on Appeal – Funding Year 2004-2005**

October 14, 2005

Fadi Daher  
North Sacramento School District  
670 Dixie Avenue  
Sacramento, CA 95815

Re: Applicant Name: NORTH SACRAMENTO ELEM SCH DIST  
Billed Entity Number: 144615  
Form 471 Application Number: 395567  
Funding Request Number(s): 1081292, 1091613  
Your Correspondence Dated: July 12, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1081292, 1091613  
Decision on Appeal: **Denied**  
Explanation:

- On appeal, you state the denial of funding for FRNs 1081292 and 1091613 resulted from a misunderstanding of the required documents rather than from the absence of such documents or any flaw in your bidding process. You further explained that during your phone conversations with the selective reviewer, you thought that the information requested to complete the review was a copy of the signed contract with SBC and you provided that. It is now clear to you that the RFPs that led to the contract were required. You also indicated again that there were no RFPs in Year 2004 for these services as they were provided under a pre-existing Calnet contract signed in January 2000. Copies of the RFPs for telecommunications and internet access services posted in December 1999 with the due date of January 5, 2000 were enclosed with your appeal. In closing the

appeal, you requested the denial decision to be reconsidered due to the simple misunderstanding.

- Upon thorough review of the appeal and all relevant documentation, it was determined that Items 8 and 9 of the cited Form 470 (250500000261959) were checked indicating that the District had RFPs for the requested telecommunications and internet access services. During the Selective Review, you were requested for documentation including "copies of any and all requests for proposals (RFPs), invitation to bid, request for bids, or other documentation of bid requests for services and/or products requested, or other solicitations in any way associated with the applicant's funding request(s) and/or the selection of the service provider(s) that appear(s) on the applicant's funding request(s)." In your response to SLD dated November 9, 2004, you stated that you had provided all the RFPs, but no RFPs were provided for FRNs 1081292 and 1091613. In the follow-up request on May 16, 2005, you were again asked to provide copies of the RFPs for both FRN 1081292 and 1091613. Your response was "there is no RFP for yr 7 (2004) as this was under an existing contract from yr 3 forward." Although you have provided additional documentation (copy of the RFPs) on appeal, program rules do not permit the SLD to accept new information on appeal except where an applicant was not given an opportunity to provide information or an error was made by SLD. You were given opportunities to provide the RFPs for FRNs 1081292 and 1091613. You have failed to provide evidence on appeal that SLD has erred in its decision.
- On the Form 470 associated with your funding request(s), you indicated that you had an RFP for the products and/or services that you sought. During the review of your Form 471, you failed to provide a copy of the RFP used to procure the products and/or services requested. Consequently, SLD denies your appeal.
- FCC rules require applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. A description of the Telecommunication Services, Internet Access, and Internal Connections services being sought are required to be provided in Items 8, 9 and 10 of the FCC Form 470. *See* Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470, OMB 3060-0806 (*FCC Form 470*). At Items 8(a), 9(a), and 10(a), the applicant is required to indicate whether it has a Request(s) for Proposal (RFP) that specifies the services it is seeking.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you

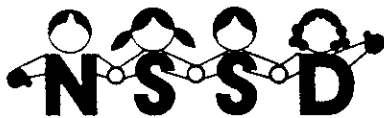
are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

Fadi Daher  
North Sacramento School District  
670 Dixieanne Avenue  
Sacramento, CA 95815

Billed Entity Number: 144615  
Form 471 Application Number: 395567  
Form 486 Application Number:



# North Sacramento School District

670 Dixieanne Avenue - Sacramento, CA 95815

Web Site - [www.nssd.k12.ca.us](http://www.nssd.k12.ca.us)

**DENNIS C. TILLET, SUPERINTENDENT**

**DEPARTMENT OF SUPPORT SERVICES**

Douglas Marquand, Chief, Business and Operations

Tel. (916) 263-8208

Fax (916) 263-8226

**BOARD OF TRUSTEES**

Vern L. Coleman

Linda M. Fowler, J.D.

Elizabeth B. Miller

Maxine Sullivan-Pepper

Carol D. Wheeler

Fadi Daher, Supervisor of Purchasing and Transportation

Tel. (916) 263-8445

Fax (916) 263-8443

[fdaher@nssd.k12.ca.us](mailto:fdaher@nssd.k12.ca.us)

To: Schools and Libraries Division  
Letter of Appeal  
Box 125 - Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

July 12, 2005

Re: APPEAL OF SLD DECISION

This correspondence is to appeal the SLD decision for funding year 2004, 471 application # 395567: FRNs 1081292 & 1091613. The funding commitment letter is dated June 21, 2005.

The Billed Entity is: North Sacramento Elem. Sch. Dist.

The Billed Entity number is: 144615

The 471# is: 395567

The funding commitment letter states:

*"Your form 470 indicated that you had an RFP describing the services that you sought on this funding request. However, since you failed to provide RFP's that were requested in order to review the bidding process, the funding is denied."*

This language is used in both FRNs.

We wish to appeal this funding denial on the grounds that it stems from a simple misunderstanding of the required documents, and not from the actual absence of such documents, or from any flaw in our bidding process.

In our conversations with Jaimi Smith, during the Selective Review process, we obviously misunderstood her request: our understanding was that all she required for this application to be complete was a copy of the signed contract with SBC. We consequently provided such a copy. It is clear now that a copy of the signed contract was not sufficient, and that the RFPs that led to this contract were required.



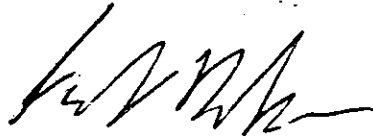
There were no RFPs in yr 7 for these services, as they were provided under a preexisting Calnet contract. The funding request for yr 2004 is for a contract that was signed in yr 3, several years earlier, in January 2000.

At that time, we had posted a 470 application with a request for Telecom services and Internet services, which Pacific Bell (now SBC) responded to. Pacific Bell was the only Service Provider that responded to our request. We are enclosing copies of the requests for services that were posted in December 1999. A copy of the signed contract had previously been provided, during the Selective Review Process.

In view of the simple misunderstanding that led to this funding denial, and of the severe impact this denial will have on the fiscal health of our school district, I hope you will reconsider this decision.

Please feel free to contact me at any time should you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fadi Daher', with a stylized flourish at the end.

Fadi Daher  
Supervisor of Purchasing & Transportation  
North Sacramento School District



**Universal Service Administrative Company**  
Schools & Libraries Division

**FUNDING COMMITMENT DECISION LETTER**

(Funding Year 2004: 07/01/2004 - 06/30/2005)

June 21, 2005

Fadi Daher  
NORTH SACRAMENTO ELEM SCH DIST  
2628 Taft Street  
SACRAMENTO, CA 95815-3023

Re: Form 471 Application Number: 395567  
Funding Year 2004: 07/01/2004 - 06/30/2005  
Billed Entity Number: 144615  
Applicant's Form Identifier: yr7sbc exisiting

Thank you for your Funding Year 2004 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$102,152.06 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

**NEXT STEPS**

- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

**FUNDING COMMITMENT REPORT**

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

**TO APPEAL THIS DECISION:**

If you wish to appeal the decision indicated in this letter, your appeal must be received by the SLD or postmarked withing 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the

Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

## A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

**FORM 471 APPLICATION NUMBER:** The unique identifier assigned to a Form 471 application by the SLD.

**FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

**FUNDING STATUS:** Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

**SERVICES ORDERED:** The type of service ordered from the service provider, as shown on your Form 471.

**SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

**SERVICE PROVIDER NAME:** The legal name of the service provider.

**CONTRACT NUMBER:** The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

**BILLING ACCOUNT NUMBER:** The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

**SERVICE START DATE:** The date services were reported to start for this FRN on your Form 471.

**CONTRACT EXPIRATION DATE:** The date the contract expires. This will be present only if a contract expiration date was provided on your Form 471.

**SITE IDENTIFIER:** The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES:** Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

**ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES:** Annual eligible non-recurring charges approved for the funding year.

**PRE-DISCOUNT AMOUNT:** Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FUNDING COMMITMENT REPORT

Form 471 Application Number: 395567  
Funding Request Number: 1081292      Funding Status: Not Funded  
Services Ordered: Telecommunications Service  
SPIN: 143002665      Service Provider Name: Pacific Bell Telephone Company  
Contract Number: CNT-001  
Billing Account Number: N/A  
Service Start Date: 07/01/2004  
Contract Expiration Date: 06/30/2005  
Annual Pre-discount Amount for Eligible Recurring Charges: \$110,830.80  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$110,830.80  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Contract/RFP Provision  
Funding Commitment Decision Explanation: Your Form 470 indicated that you had an RFP describing the services that you sought on this funding request. However, since you failed to provide RFPs that were requested in order to review the bidding process, the funding is denied.

Funding Request Number: 1091613      Funding Status: Not Funded  
Services Ordered: Internet Access  
SPIN: 143004610      Service Provider Name: Pacific Bell Internet Services,  
Contract Number: c  
Billing Account Number: N/A  
Service Start Date: 07/01/2004  
Contract Expiration Date: 06/30/2005  
Annual Pre-discount Amount for Eligible Recurring Charges: \$3,946.80  
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00  
Pre-discount Amount: \$3,946.80  
Discount Percentage Approved by the SLD: N/A  
Funding Commitment Decision: \$0.00 - Contract/RFP Provision  
Funding Commitment Decision Explanation: Your Form 470 indicated that you had an RFP describing the services that you sought on this funding request. However, since you failed to provide RFPs that were requested in order to review the bidding process, the funding is denied.